

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
State Admin Rule Filing Id:		Time filed:	
	Agency No.	Rule No.	Section No.
Utah Admin. Code Ref (R no.):	R 156	- 56	- 403
Changed to Admin. Code Ref. (R no.):	R	-	-

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Dan S. Jones	801-530-6720	801-530-6511	dansjones@utah.gov

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2.	Title of rule or section (catchline):
	Factory Built Housing Dispute Resolution Program
3.	Type of notice:
	New ____; Amendment XXX; Repeal ____; Repeal and Reenact ____
4.	Purpose of the rule or reason for the change:
	H.B. 51 which was passed during the 2013 Legislative General Session deleted the requirement to have a dispute resolution program for factory built housing. This requirement was originally put into statute to enable the Division to perform this duty as part of its acting as a United States Department of Housing and Urban Development (HUD) approved state administrative agency. HUD does not require this duty to be performed by the state administrative agency, so the Legislature decided to eliminate this requirement. While this duty was eliminated from statute, it will have little if any affect on Division investigations. The Division will still investigate allegations of unprofessional or unlawful conduct by factory built housing dealers as the result of the licensing provisions that are not being changed and remain in effect.
5.	This change is a response to comments from the Administrative Rules Review Committee.
	No XXXX; Yes ____
6.	Summary of the rule or change:
	Section 403 with respect to a factory built housing dispute resolution program is deleted in its entirety.
7.	Aggregate anticipated cost or savings to:

A) State budget:		
Affected:	No XXX; Yes ____	
The proposed amendment will not affect the state budget. The deletion of this section will also have little, if any, affect on Division investigations with respect to factory built housing dealers.		
B) Local government:		
Affected:	No XXX; Yes ____	
The proposed amendment to delete the section only applies to factory built housing dealers and persons who want to file a complaint against a licensed factory built housing dealer. As a result, the proposed amendment does not apply to local governments.		
C) Small businesses ("small business" means a business employing fewer than 50 persons):		
Affected:	No ____; Yes XXX	
The proposed amendment only applies to licensed factory built housing dealers, which may qualify as a small business, and persons who want to file a complaint against a licensed factory built housing dealer. While the proposed amendment eliminates the formal requirement to have a dispute resolution program to protect factory built housing homeowners, the proposed amendment will have little, if any, affect on the homeowners or the dealers. Factory built housing dealers who engage in unlawful or unprofessional conduct affecting homeowners will still be investigated by the Division and disciplined if necessary. In addition, factory built housing dealers are required to post a \$50,000 license bond as a condition of licensure. Therefore, the homeowners are still protected by the coverage of these bonds.		
D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):		
Affected:	No ____; Yes XXX	
The proposed amendment only applies to licensed factory built housing dealers, which may qualify as a small business, and persons who want to file a complaint against a licensed factory built housing dealer. While the proposed amendment eliminates the formal requirement to have a dispute resolution program to protect factory built housing homeowners, the proposed amendment will have little, if any, affect on the homeowners or the dealers. Factory built housing dealers who engage in unlawful or unprofessional conduct affecting homeowners will still be investigated by the Division and disciplined if necessary. In addition, factory built housing dealers are required to post a \$50,000 license bond as a condition of licensure. Therefore, the homeowners are still protected by the coverage of these bonds.		
8.	Compliance costs for affected persons:	
The proposed amendment will have little, if any, affect on factory built housing dealers. They are still required to comply with licensing statutes and rules and if they engage in unprofessional conduct, they will be still subject to disciplinary action by the Division.		
9.	A) Comments by the department head on the fiscal impact the rule may have on businesses:	
As stated in the rule analysis, the proposed amendment responds to statutory changes made during the 2013 General Session (H.B. 51). No fiscal impact to businesses is anticipated beyond those contemplated by the Legislature in determining to pass the bill.		
B) Name and title of department head commenting on the fiscal impacts:		
Francine A. Giani, Executive Director		
10.	This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.	
State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :		
Subsection 58-1-106(1)(a)		Subsection 58-1-202(1)(a)
Section 58-56-1		
11.	This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; <i>if none, leave blank</i>):	
	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)		
Publisher		

	Date Issued		
	Issue, or version		
	ISBN Number (optional)		
	ISSN Number (optional)		
	Cost of Incorporated Reference		
	Action: Adds, updates, or removes		
	(If this rule incorporates more than two items by reference, please attach additional pages)		
12.	The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)		
	A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):	08/14/2013	
	B) A public hearing (optional) will be held:		
	On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
	07/29/2013	11:00 AM	160 East 300 South, Conference Room 474, Salt Lake City, Utah
13.	This rule change may become effective on (mm/dd/yyyy):		08/21/2013
	NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.		
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid"); may not include the name of the agency:		
	factory built housing contractors	building inspection	
	licensing	building inspectors	
15.	Attach an RTF document containing the text of this rule change (filename):		R156-56.pro
To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> , and delaying the first possible effective date.			
AGENCY AUTHORIZATION			
Agency head or designee, and title:	Mark B. Steinagel, Director	Date (mm/dd/yyyy):	06/19/2013

R156. Commerce, Occupational and Professional Licensing.

R156-56. Building Inspector and Factory Built Housing Licensing Act Rule.

~~[R156-56-403. Factory Built Housing Dispute Resolution Program.~~

~~—— (1) In accordance with Subsection 15A-1-306(1)(f)(i), the dispute resolution program is defined and clarified as follows:~~

~~—— (a) Persons with manufactured housing disputes may file a complaint with the Division.~~

~~—— (b) The Division shall investigate such complaints and as part of its investigation may take any of the following actions:~~

~~—— (i) Negotiate an informal resolution with the parties involved.~~

~~—— (ii) Take any informal or formal action allowed by any applicable statute, including but not limited to:~~

~~—— (A) pursuing disciplinary proceedings under Section 58-1-401;~~

~~—— (B) assessing civil penalties under Subsection 15A-1-306(2); and~~

~~—— (C) referring matters to appropriate criminal prosecuting agencies and cooperating or assisting with the investigation and prosecution of cases by such agencies.~~

~~—— (c) In addition, persons with manufactured housing disputes may pursue a civil remedy.]~~

KEY: factory built housing contractors, building inspection, licensing, building inspectors

Date of Enactment or Last Substantive Amendment: ~~[September 12, 2011]~~ 2013

Notice of Continuation: January 31, 2012

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-56-1